

ADVISORY JURISDICTION: POLITY

NEWS: T.N. CM Stalin condemns Presidential reference on Supreme Court's verdict imposing time frame for assent of Bills

WHAT'S IN THE NEWS?

The President has invoked Article 143 to seek the Supreme Court's advisory opinion on whether Governors and the President must act within a fixed timeline on state bills, a move with major implications for Centre-State relations and constitutional accountability.

Context:

- President Droupadi Murmu has sought the Supreme Court's advisory opinion under Article 143 regarding whether the President and State Governors must adhere to timelines for deciding on state bills.
- This follows a Supreme Court ruling that imposed specific time limits on Governors for granting assent to bills passed or re-passed by State Legislatures.

Background of the Issue:

- Delay in Governor's Assent:
 - Constitutionally, there is no prescribed time limit for Governors to act on a bill.
 - This results in a situation known as "Pocket Veto", where a Governor can indefinitely withhold assent by simply not acting on the bill (though the term is not in the Constitution).
- Supreme Court Verdict (2024):
 - SC ruled that Governors cannot indefinitely delay decisions on state bills.
 - Laid down time limits for action:
 - 1 month for re-passed bills (i.e., passed again by the Assembly after the Governor initially withheld assent).
 - 3 months if a bill is withheld contrary to the Cabinet's advice.

Article 142 – Supreme Court's Complete Justice Power:

- Text and Scope:

- Enables SC to pass any order necessary for doing “complete justice” in any case.
- Such orders are enforceable across the entire country.
- Utility:
 - Allows SC to step beyond traditional judicial powers in special cases.
 - Can issue guidelines, direct actions, or fill legislative gaps to uphold justice.
- Examples:
 - Guidelines for sexual harassment (Vishaka case),
 - Environmental rulings,
 - Unified civil code discussions.
- Criticism:
 - Accused of judicial overreach.
 - Can breach the separation of powers by intervening in executive or legislative domains.

Article 143 – Power of President to Seek SC Advice:

- Article 143(1):
 - President may refer any legal or factual question of public importance to the Supreme Court for an advisory opinion.
- Key Features:
 - Supreme Court’s opinion is not binding, but carries high persuasive value.
 - SC may choose to answer or decline the reference.
 - Under Article 145(3), a bench of at least five judges must hear such references.
- Historical Background:
 - Derived from Section 213 of the Government of India Act, 1935.
- Need for Advisory Power:

- Allows the President to independently consult the judiciary on matters of constitutional ambiguity or political sensitivity.
- Helps in safeguarding constitutional morality and ensuring democratic functioning.

Key Issue in the Reference:

- Whether Presidents and Governors are bound to act on state bills within a specific time frame?
- Can the judiciary enforce timelines on constitutional authorities using Article 142?
- Does the Cabinet's advice under Article 74/163 constrain the discretion of the President or Governor?

Implications of the Reference:

- Federal Balance:
 - Will affect Centre-State relations, especially where opposition parties are in power in states.
 - Ensures Governors act as neutral constitutional functionaries, not as political agents.
- Judicial Oversight and Separation of Powers:
 - Raises questions on whether judiciary can direct constitutional functionaries like the President or Governor.
 - Tests the limits of judicial review over executive inaction.
- Reaffirming Democratic Processes:
 - Timely assent to bills is vital for legislative supremacy and smooth governance.
 - Prevents executive obstruction of state legislative mandates.

Use of Article 143 in the Past:

- Invoked over 15 times since 1950.
- Notable examples:
 - Berubari Union case (1960),

- Ayodhya land acquisition (1993),
- 2G spectrum cancellation aftermath (2012).

Conclusion:

- This reference is more than a legal clarification — it is a constitutional moment.
- It will define how delays in bill assent are regulated, and clarify the balance of powers in India's federal democracy.
- A positive outcome could prevent misuse of gubernatorial discretion, uphold constitutional accountability, and reinforce democratic decision-making at the state level.

Source: <https://www.thehindu.com/news/national/tamil-nadu/tn-cm-stalin-condemns-presidential-reference-on-supreme-courts-verdict-imposing-time-frame-for-assent-of-bills/article69578375.ece>